

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CRESTON KINDNESS,

Defendant.

CR 13-37-GF-DLC

ORDER

United States Magistrate Judge Keith Strong entered Findings and Recommendation in this matter on June 12, 2013. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Strong recommended this Court accept Creston Kindness's guilty plea after Kindness appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered a plea of guilty to one count of Assault Resulting in Serious Bodily Injury in violation of 18 U.S.C. § 1153(a), 113(a)(6), as set forth in the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Counts II and III of the Indictment.

I find no clear error in Judge Strong's Findings and Recommendation (doc. 26), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS HEREBY ORDERED that Creston Kindness's motion to change plea (doc. 19) is GRANTED.

DATED this 3rd day of July 2013.



Dana L. Christensen
Dana L. Christensen, Chief District Judge
United States District Court